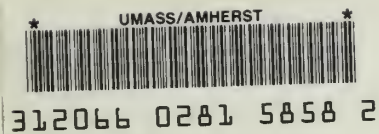


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PROVIDING JUSTICE UNDER FURTHER BUDGET CUTS:

A JUDICIAL IMPACT STATEMENT

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SUPREME JUDICIAL COURT

AND

RELATED AGENCIES

FY1990

The Supreme Judicial Court, under the current budget format, receives three direct appropriations: Acct. No. 0320-0001 (Justices' salaries and expenses), Acct. No. 0320-0003 (All other costs and expenses of the Supreme Judicial Court) and Acct. No. 0320-0009 (Salaries and expenses of recalled appellate justices). Through careful management, the Court expects to be able to complete FY1990 without having to seek any supplemental appropriations for these accounts.

This objective has been achieved by allowing staff positions to remain vacant through attrition, curtailment of certain expenses, e.g. travel and employee attendance at educational programs, partial deferral of some programs, e.g. delay in execution of the statutory provision for automation of the Court's activities, a freeze on cost of living adjustments for senior management employees, postponement of action on some salary adjustments recommended in an FY1989 study by Arthur Young and Company, and negotiation of a revised printing contract for the publication of the official reports of both the Supreme Judicial Court and the Appeals Court.

This accomplishment, however, constitutes marching in place and can continue only temporarily. Buying time usually costs more in the end.



Several major initiatives are in the formative stages of development and will begin in earnest later in this fiscal year or early in FY1991. These include the Chief Justice's Commission on the Future of the Courts, a study of racial-ethnic bias in the courts, the third and most expensive phase (acquisition and installation) of the automation program, further refurbishing of the Court's public quarters, renovations to make more effective use of overcrowded office space and the like.

It should be noted that the Commission on Judicial Conduct, one of the related agencies in the Supreme Judicial Court portion of the budget, will encounter a deficit in FY1990 because of expenses, e.g. hearing officers' and stenographers' fees, incurred in the investigation of allegations of judicial misconduct. The Commission's staff is small (four employees) and its FY1990 appropriation modest (\$227,065 or 90% of its FY1989 appropriation). The members of the Commission perform their onerous but necessary task without compensation and with only minor reimbursement of expenses, a statutory entitlement often not claimed. Nevertheless, there has so far been no receptivity by the executive branch to support supplemental funding for the Commission in order to complete investigations now in progress.

FY1991

SUPREME JUDICIAL COURT, BOARD OF BAR EXAMINERS AND COMMISSION ON JUDICIAL CONDUCT

The FY1991 budget for the Supreme Judicial Court, in the format and amount recommended by the Governor, is seriously



inadequate. The Governor's recommendation is to consolidate all of the Court's direct appropriations into one account (Acct. No. 0320-0100), a valid recommendation, and, then, to incorporate into that same account the appropriations for the Board of Bar Examiners and the Commission on Judicial Conduct, two statutory agencies within the judicial branch. This second step is of somewhat questionable desirability. Then, on top of these proposed account mergers, it is further proposed that the single account resulting from these mergers be reduced by \$608,000 from the amount acknowledged by the Governor as necessary to maintain combined services at their current level.

In this respect, it should be noted that this proposed account would include within it an agency already operating in the red, the Commission on Judicial Conduct.

In addition, this merged account would include \$634,0008 in statutorily established salaries for the justices of the Supreme Judicial Court, a mandated expenditure not subject to reduction under the Massachusetts Constitution. Accordingly, any reductions would have to come exclusively from other components of the merged account.

Not all of the expenditures to be covered by the merged account are for the direct benefit of the Supreme Judicial Court, the Board of Bar Examiners or the Commission on Judicial Conduct. Also included in this account are certain expenditures for the benefit of the Appeals Court. The appropriation for the recall



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of retired appellate justices has been used for the benefit of the Appeals Court, in the circumstances an expense made necessary by lengthy vacancies on the Appeals Court's bench (5⁻at present). Were it not for the existence in the Supreme Judicial Court of funds for the recall of retired appellate judges the situation in the Appeals Court would be much worse than it is. In addition, approximately one-half of the expenses of the office of the Reporter of Decisions, an official of the Supreme Judicial Court, must be attributed to the publication of the official reports of the Appeals Court, a statutory requirement.

Moreover, it should also be noted that the Supreme Judicial Court, from fees, court costs and the sale of the official reports of both appellate courts, will take in revenue of approximately \$729,000 in FY1990. None of this revenue is retained by the Court. All of it is, instead, transmitted to the State Treasurer.

Should the Supreme Judicial Court be allowed to retain for court purposes the fees received, including bar application fees and revenue from the sale of the official reports, the proposed reductions would thus be offset. However, authority to do so would require statutory amendments.

Should the budget be passed as proposed, the Court will have to eliminate or sharply curtail its ongoing efforts to automate the processes of its supporting staff. These efforts were initiated partly in response to a legislative recommendation.



Their reduction or elimination at this time, short of implementation, would make a waste of the time, money and effort carefully and systematically expended to date at the planning stage. In addition, the Court would be forced to abandon various organizational and procedural improvements for which the introduction of automation is a necessary base. Such a setback, while accomplishing a temporary reduction in expenditures, would prevent the accomplishment of greater efficiency and, over time, savings through organizational improvements and the modernization of practices and procedures.

The proposed appropriation would impede other constructive efforts initiated by the Court, such as the activities of the Chief Justice's Commission on the Future of the Courts, likely to be the source of numerous recommendations to improve the capacities and performance of our courts, and the racial-ethnic bias study needed to maintain public confidence in the courts and the judicial process in a particularly troublesome period.

Another possible source of funds to offset reductions in appropriations would be to reduce the number of bar examinations from the customary two per year to only one per year. Such a development would be particularly harsh for numerous January graduates of law schools, imposing a delay of approximately a year between graduation and admission to the bar.

Already, it has been suggested by executive officials that the Commission on Judicial Conduct reduce its staff of four



persons and limit the number of investigations of alleged of judicial misconduct to be conducted. The Commission performs a valuable function necessary to maintenance of the integrity of and public confidence in the judiciary. The Commission has no control over the volume of complaints filed. It has the obligation, in fairness to judges, to identify and dismiss unfounded accusations and, in service to the public and to the judiciary as an institution, to pursue apparently valid allegations of judicial misconduct.

Inadequate funding for the Committee runs the risk that a serious or potentially serious allegation of judicial misconduct will not receive the professionally prompt and thorough investigation required and that, as a result, a remediable situation may unnecessarily erupt, because of delay, in an aggravated form at greater expense and with greater harm to the judicial system and process.

By court rule, the Supreme Judicial Court has recently adopted a Code of Judicial Responsibility for Clerks of the Courts and authorized the establishment of two committees - one to render advice to Clerks relative to the Code's requirements and prohibitions and one to investigate alleged violations of the Code. At this time, the probable expenses of these two committees are not known or truly predictable. It is, however, fair to say at this time, that these advances in the superintendence of the Massachusetts courts and their personnel will generate additional expenses for the Supreme Judicial Court.



The Supreme Judicial Court is pursuing federal and other grant award funds for some specific purposes, e.g. scholarly programs associated with the upcoming tricentennial observation of the Court's establishment, expanded law related education programs (a proven aid in reducing juvenile delinquency), and, in part, the Commission on the Future of the Courts and the racial-ethnic bias study. While the Court is confident it will obtain some support for these and, perhaps, other activities, the amounts likely to be awarded will not be sufficient to permit a reduction in the Court's requests as submitted. Indeed, the likelihood of receipt of such funds was factored into the determinations resulting in the Court's original requests.

Assuming adoption for the Supreme Judicial Court of the format proposed for merged Account No. 0320-0100, the appropriation for true level funding should be \$5,727,693 rather than \$5,163,676, according to the Governor's calculation, for maintenance of services at the current (FY 1990) level.

MASSACHUSETTS LEGAL ASSISTANCE CORPORATION, MENTAL HEALTH LEGAL ADVISORS' COMMITTEE AND CORRECTIONAL LEGAL SERVICES.

In addition to the Board of Bar Examiners and the Commission on Judicial Conduct, the portion of the budget, as proposed, attributed to the Supreme Judicial Court also includes the Massachusetts Legal Assistance Corporation (MLAC), the Mental Health Legal Advisors Committee and Correctional Legal Services, all of which provide essential civil legal services to indigent persons.



Massachusetts is to be credited for the manner in which, in the past, it has reacted to the needs of the poor for legal services through statutorily established programs, appropriations, the use of dedicated surcharges on court fees and the participation of private lawyers in the IOLTA program established by a Supreme Judicial Court rule.

While the situation in Massachusetts might arguably be better than that prevailing in some other states, numerous studies have demonstrated that, even in Massachusetts, available civil legal services address only a relatively small portion of the actual need for such services among the poor.

In times of worsening economic conditions and the reduction of various state and municipal services, the need for civil legal services for the indigent increases sharply. Thus, the effect of reductions in appropriations for civil legal services aggravates the problems generated by reductions in other areas.

For example, cuts in the services formerly provided by the Department of Mental Health and the Department of Social Services will inevitably increase the demands upon the services provided by MLAC and the Mental Health Legal Advisors' Committee. By the same token, escalating prison and jail overcrowding will inevitably create additional demands on the services provided by Correctional Legal Services. These latter needs, if not met, will exacerbate, in turn, the volatile conditions already existing within Massachusetts' overcrowded jails and prisons.

The same is also true in many other areas in which MLAC supports civil legal service programs - domestic violence, child abuse or neglect, termination of parental rights and non-consensual adoptions, health care benefits, immigration, education, landlord tenant relations, consumer protection and the like.

Shortsighted economies in these areas will only increase the legitimate need for legal services which, if not timely provided, will contribute to festering social and economic problems. On the merits and in the interest of social justice, MLAC, the Mental Health Legal Advisors' Committee and Correctional Legal Services should be adequately funded.

On a purely practical level, enlightened self-interest leads to the same conclusion. The failure to provide for prompt resolution of civil legal issues through negotiation, settlement, administrative procedures or political action will inevitably increase resort to litigation, thereby increasing congestion, backlogs and delays in the courts and judicial involvement in matters more appropriately resolved through administrative or legislative action, possibly at even greater ultimate cost.

MASSACHUSETTS COMMITTEE FOR PUBLIC COUNSEL SERVICES.

In St. 1989, c. 653, § 228, the Legislature has requested the Supreme Judicial Court to comment on various aspects of the operations and activities of the Committee for Public Counsel Services. The Court's response is nearing completion and will be delivered shortly.

In the meantime, it should be noted that the Court's primary concern is that adequate provision be made for the effective assistance of competent counsel to indigent persons accused of crime, an unavoidable constitutional mandate, and for certain non criminal legal services when counsel is required by a statute or constitutional provision.

In this respect, it must be noted also that increases in domestic abuse cases, crimes of violence (particularly crimes involving the use of guns by young offenders or juvenile delinquents in poor urban areas), increased drug related crimes (particularly those involving cocaine and "crack"), stepped up law enforcement, jail and prison overcrowding and the like (all with socio-economic implications and, in part at least, with socio-economic causes) affect the unavoidable caseloads of the Committee and, accordingly, must be attended to through adequate appropriations.

OUTSIDE SECTIONS

Section X1 of the Governor's proposed FY 1991 budget would permit the Chief Justice of the Supreme Judicial Court to transfer appropriated funds within the judicial branch. The existence of such transfer authority makes good fiscal sense, especially within the Trial Court. The Governor also recommends consolidation of appellate court appropriations, thereby, in effect, permitting functional transfers within the Supreme Judicial Court and within the Appeals Court.

Should this total responsibility be vested in the Chief Justice of the Supreme Judicial Court, the staff of the Supreme Judicial Court would have to be expanded to oversee this responsibility or the Chief Justice would be compelled to rely on the recommendations of others, primarily the Chief Administrative Justice of the Trial Court.

In these circumstances, it is suggested that, within the Trial Court, this authority be vested in the Chief Administrative Justice, perhaps with, if deemed necessary, the approval of the Chief Justice of the Supreme Judicial Court.

FOR FURTHER INFORMATION, PLEASE CONTACT:

John F. Burke, Administrative Assistant
Supreme Judicial Court
1350 Courthouse
Boston, Massachusetts 02108
(617) 725-8083

IMPLICATIONS OF AN APPEALS COURT BUDGET FUNDED AT \$3.166
MILLION

The target figure for the Appeals Court for FY 91 has been set at \$3.166 million, a reduction of \$309,000, or 9.1%, from the amount appropriated in this fiscal year's reduced level of funding.

The effect of such a reduction would be particularly severe in the Appeals Court because, as the administration noted in its narrative description, more judges will soon be appointed to the Appeals Court. We expect three new judges before the end of the current fiscal year (raising the court's membership from nine to twelve), and it is possible that two more judges may also be appointed, bringing the complement to fourteen.

Under either situation, severe cuts would be mandated. More than 90% of the Appeals Court's budget is allocated to personnel costs. To accommodate additional judges, layoffs of non-judicial personnel would be inevitable.

Personnel

--No new hires: presently, out of 68 authorized positions, there are four vacancies. As of September 1, 1990 two more vacancies will be created, leaving a vacancy rate of 9%.

--No payment of negotiated raises.

--No cost of living increases for the second consecutive year.

--Elimination of dental/optical coverage.

--If twelve judges are on the court, at least seven persons would have to be laid off, leaving us with 55 filled positions, or a vacancy rate of 19.1%.

--If fourteen judges are on the court, at least twelve persons would have to be laid off, leaving us with 50 filled positions, or a vacancy rate of 26.5%.

Non-Personnel:

Similarly, drastic reductions would be made here, but non-personnel items comprise less than ten per cent of Appeals Court expenditures:

--Eliminate out-of-state travel (i.e., no educational opportunities).

--Curtail in-state travel.

--Suspend microfilming of transcripts, briefs and appendices.

--No new office equipment.

--A shortage of office supplies.

--No funds for automated legal research (i.e., LEXIS).

--Suspension of upkeep on law books. This is perhaps the most serious of all non-personnel items affecting an appellate court. The very function of an appellate court is to read and interpret the law. If it lacks the confidence that its own books are up to date, it will be unable to do its job satisfactorily.

COMMONWEALTH OF MASSACHUSETTS
THE APPEALS COURT
BOSTON 02108

JOSEPH P. WARNER
CHIEF JUSTICE

617-725-8092

February 16, 1990

Hon. Paul J. Liacos
Chief Justice
Supreme Judicial Court
Boston, MA 02108

Dear Chief Justice Liacos:

I write to inform you that, for the second consecutive year, the Appeals Court will be unable to comply with the so-called "February first" guideline, i.e., Part One of the Supreme Judicial Court's 1978 Standing Order regarding the time within which cases may be determined by the appellate courts.

Last year, as of February 1, there were 305 cases which were fully briefed, and thus eligible for consideration under the guideline. Between February and June of 1989, about 265-270 of those cases were reached, leaving a shortfall of about three dozen eligible cases which were not. Those cases, of course, were carried over to the fall and were added to the cases which had become fully briefed after February 1, 1989.

Another way of looking at our noncompliance with the guideline is by the calendar, because we schedule our cases in the order that the briefing was completed. Last year, we were able to reach cases which were briefed as of January 10, thereby missing the February 1 guideline by three weeks.

We attributed our noncompliance to the absence of a judge for the entire court year. As you know, Judge Grant retired in October, 1988, and thus took no cases in September. That vacancy went unfilled for almost fifteen months. Losing the services of one judge for a full court year cost us about sixty cases (based on average judicial productivity). Thus, by February 1, 1989, the figure of 305 cases would have been closer to 275, and the court, if fully staffed, would have been able to reach more than 275 cases between February and June.

This year, the situation is worse. As of February 1, 1990, there were 424 cases which were fully briefed. Assuming that the court is again able to reach 270 of those cases, we would fall short by 150-155 cases. Looking at the

Hon. Paul J. Liacos
February 16, 1990
Page 2

calendar, we would probably reach cases which were fully briefed in late October of 1989. Hence, we will miss the guideline by about three months.

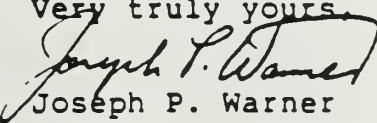
This year's noncompliance can again be attributed, in part, to judicial vacancies. As noted earlier, one vacancy from last year remained unfilled until December of 1989. Furthermore, a second vacancy was created when Chief Justice Greaney was appointed to the Supreme Judicial Court in September, 1989. That vacancy remains unfilled almost six months later.

An increase in appellate entries has also contributed to the situation. Entries for calendar 1989 were up about 5.5% over 1988.

The arrival of three more judges will, of course, help reduce the numbers, but will not enable us to comply. If three judges join the court in April, 1990, 54 more cases can be heard, reducing the shortfall to about 100 cases; if their arrival is not until May, the reduction would be by 36 cases, to about 120 cases.

All of the above considerations apply only to civil cases. Criminal cases continue to be given preference in scheduling and are not subject to any cutoff dates. If a criminal case is fully briefed by April 30, it will be heard in May. Likewise, any civil case which is expedited by order of the court will not be affected. Child custody matters, for example, continue to be scheduled as soon as they are ready.

Very truly yours,


Joseph P. Warner

JPW:prs

COMMONWEALTH OF MASSACHUSETTS
THE APPEALS COURT
BOSTON 02108

JOSEPH P. WARNER
CHIEF JUSTICE

617-725-8092

February 20, 1990

Hon. Paul J. Liacos
Chief Justice
Supreme Judicial Court
Boston, Massachusetts 02108

Dear Chief Justice Liacos:

I write to discuss the Appeals Court's budgetary needs for fiscal year 1991, and to point out graphically the probable devastating effects on the court of the appropriation proposed in House One.

I give you two sets of figures, one based on an assumption that fourteen judgeships are filled, the other based on an assumption that we will have twelve judges.

I. Fourteen Judges

--Judicial salaries and expenses	\$1,205,000
--Salaries for all presently filled positions ¹ ✓	\$2,249,000
--Salaries for now-vacant positions ² ✓	\$ 153,000
--Step raises	\$ 20,000
--Non-payroll encumbrances	\$ 190,000
TOTAL:	<hr/> \$3,817,000

II. Twelve Judges

--Judicial salaries and expenses	\$1,038,000
--Salaries for all presently filled positions	\$2,249,000
--Salaries for certain now-vacant positions ³ ✓	\$ 79,000

¹✓ This allows for only seventeen law clerks, instead of the present nineteen.

²✓ Three secretaries, one staff attorney, and the eighteenth and nineteenth law clerks as indicated above.

³✓ Two secretaries and one staff attorney.

Hon. Paul J. Liacos
Page 2
February 20, 1990

--Step raises \$ 20,000
--Non-payroll encumbrances \$ 190,000

TOTAL \$3,576,000

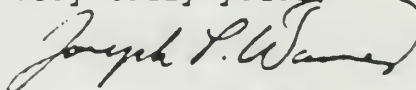
As you know, the proposed appropriation for the Appeals Court for fiscal year 1991 is \$3,166,000. Because of the addition of judges to the court, that proposal is, in effect, a reduction of \$651,000 (or 17%) below necessary levels if all fourteen judges are on board, or a reduction of \$410,000 (11 1/2%) if we have twelve judges.

To achieve a reduction of \$651,000, with fourteen judges, I estimate that we would have to do the following: leave all vacant positions unfilled, cut non-payroll expenditures by more than one-third, cancel step raises, and lay off as many as thirteen employees. That would leave us with 49 non-judicial positions filled, out of an authorized total of 68.

To achieve a reduction of \$410,000, with twelve judges, I anticipate that we would go through the same steps described above, except that "only" seven layoffs would be required. Needless to say, the effect of a reduction of either magnitude would be disastrous. Inevitably, production (and quality, perhaps) would suffer, and the court would become even more seriously backlogged.

Finally, it should be noted that the amounts originally appropriated by the Legislature for the current fiscal year -- before either round of reductions -- would be almost sufficient for the Court for next year. The Legislature had originally appropriated about \$1,100,000 for the judges and \$2,670,000 for all other court needs.

Very truly yours,



Joseph P. Warner

JPW:prs

IMPLICATIONS OF A TRIAL COURT BUDGET
FUNDED AT \$223.79 MILLION

The target budget figure the Trial Court has been set for FY 91, commencing July 1, 1990, at \$223.79 million, or a \$23.01 million reduction in the amount appropriated in Fiscal Year 90's reduced level of funding of \$246.8 million. If the Trial Court is funded at the \$223.79 million level, it will represent an 11% cut across all accounts.

The implications of this proposed budget impact all aspects of Trial Court operations, both internally on the operations of the court, and externally, impacting the users of court services. As can be seen from the attached chart, cases entered in the Trial Court departments continue to increase each year. The Trial Court will be faced with processing a greater number of cases with fewer resources.

Trial Court costs are allocated at 80% for Personnel costs, and 20% for non personnel related costs. To achieve the cut of \$23.01 million in FY 91, 80%, or \$18.408 million must come from Personnel accounts, and 20%, or \$4.602 million, must be spread across all non personnel related costs incurred by the court.

Personnel

The Trial Court workforce will continue to be reduced. To maximize the resources available across the court, the authority to transfer personnel both intra and interdepartmentally will be sought.

To achieve reductions in the area of personnel, the following actions will be necessary:

- Attrition and no new hires will reduce the workforce by an additional 284 employees, or a vacancy rate of 15% of authorized positions.

- No payment of negotiated raises will be made.

- No cost of living adjustments for employees will be made for the second year in a row.

- A total of 700 employees will need to be eliminated from the payroll over the fiscal year; assuming attrition will reduce the force by 284, an additional 426 employees' positions will be eliminated by lay off, producing a vacancy rate of 22%.

- Affecting personnel, the dental/optical benefit may have to be eliminated.

Non Personnel

Management of these accounts will require the court to be able to transfer funds between line items to maximize the use of available funds. To achieve the 11% cut across all accounts amounting to \$4.6 million dollars, the following cost reduction activities will be considered:

- Rental payments to the counties for use of their building and telephone systems will be at a reimbursement rate of less than half of actual cost.

- Out of state travel will be eliminated.

- In state travel reimbursement will also be eliminated, except where legislatively mandated.

- Educational programming will be reduced as funds for travel for participants will not be available.

- Alternative methods of hearing cases, such as through the use of masters or mediation programs will be eliminated or greatly reduced.

- Funds for the Social Law Library will not be available.

- No new furniture will be purchased.

- No new telephone systems will be installed, nor will existing systems be upgraded.

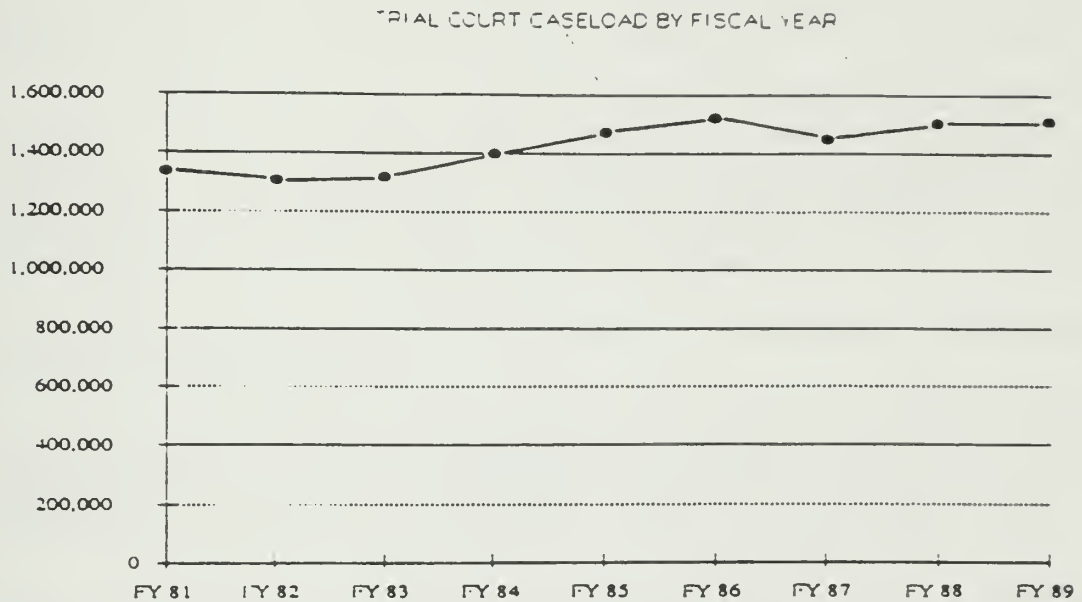
- No further microfilming of court records will occur.

- Only printing of essential Trial Court forms will be allowed.

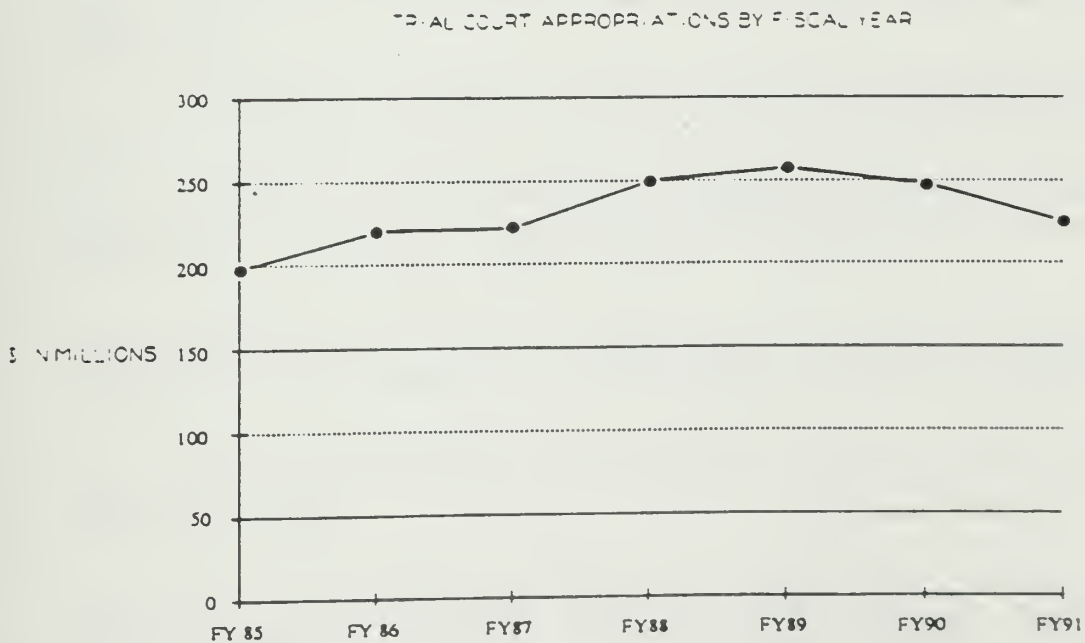
All measures which will allow the courts to manage their resources must be employed to keep the system operating: the consolidation of the 90 Trial Court line items to 10, or even 1 line item would allow the administrative office to allocate funds to reduce or alleviate deficiencies (assuming sufficient funds are available overall), the ability of the court to transfer personnel inter and intra departmentally to meet specific needs, and the consolidation of administrative functions centrally will be necessary to manage the system.

March 1990

As you can see from the graphs which follow, while case entries and the complexity of cases (such as product liability, right to die, serious juvenile drug and assault cases) in the Trial Court have increased,



the funds appropriated to support the expeditious processing of the complex business of the Trial Court are now significantly decreasing.



BOSTON MUNICIPAL COURT DEPARTMENT

The Boston Municipal Court Department experienced an 8.5% decrease in its appropriation in Fiscal Year 1990. The FY'89 appropriation of \$5,370,655 was reduced to \$4,912,122 in FY'90.

If the Trial Court appropriation is reduced by \$23.31 million in FY'91 and if that reduction results in an 11% reduction in all accounts, the appropriation of the Boston Municipal Court Department would be further reduced to \$4,371,789 for FY'91, an amount which is only 21% higher than the amount appropriated for the Department in FY'80.

The present and future effects of budgetary reductions include the following:

--An additional reduction of 11% in FY'91 would result in a total loss of funding of almost \$1 million since FY'89. The Department could not withstand this loss and would be forced to reevaluate the court's business and prioritize services.

--The Boston Municipal Court Department anticipates a shortfall of approximately \$280,000 in the subsidiary account for personnel in FY'90.

--Sixteen permanent positions are presently vacant and cannot be filled.

--Further reductions will necessitate layoffs in a department which presently has forty fewer employees than ten years ago.

--The trials of civil cases would be severely impacted by lack of funding for the positions of two recall justices.

--Funding for the mediation program has been reduced by half and may be eliminated resulting in an increase in the daily courtroom workload in the criminal division.

--Reduced funding for repairs would result in the closing of courtroom sessions due to inoperable recordation equipment. No funding is available for the purchase of new equipment.

--The functioning of the clerks' offices would be seriously impaired by the inability to repair aging copier machines and cash registers.

--The printing of subpoenas, complaints, warrants and official court documents would be jeopardized by a reduction in the Department's allocation for printing costs.

Boston Municipal Court Department

February 28, 1990

--A reduction in the monies available for postage would jeopardize the ability of the respective clerks to notify parties and to issue summonses and subpoenas in the furtherance of justice and in compliance with statutory provisions and rules of court.

PERSONNEL

Since most subsidiary accounts in individual department and court line items have been centralized in the Office of the Chief Administrative Justice, personnel costs constitute a larger percentage of appropriation than may occur in other agencies. In the case of the Boston Municipal Court Department, personnel costs comprised 96% of the FY'89 appropriation.

The estimated personnel costs for FY'90, with a present vacancy rate of 8.6%, exceeds the authorized appropriation of \$4,727,747 by \$275,629. This estimation does not include the costs of implementation of collective bargaining agreements.

In FY'80, the Boston Municipal Court Department had an authorized personnel complement of 209. The present authorized personnel complement is 185. Due to budget constraints and a hiring freeze there are presently 16 vacancies in the Department. Thus, the workforce of the Boston Municipal Court Department presently stands at 169.

The Department cannot withstand an additional reduction and (1) maintain present levels of services, (2) absorb the annual increase in caseload and (3) absorb the additional caseload resulting from the elimination of the positions of two recall justices and the elimination of mediation services.

As an historical perspective,

-- the number of assistant clerks for criminal business (12) has not increased since 1966,

-- the number of probation officers (28) has not increased since 1928,

-- the number of criminal court officers (12) has not increased since 1972, and

-- the number of civil court officers (5) has not increased since prior to 1935.

Boston Municipal Court Department

February 28, 1990

NON PERSONNEL

Funding for a contract with the Crime and Justice Foundation for the provision of mediation services in the criminal division of the Boston Municipal Court Department was reduced to \$22,500 in FY'90, half of the amount expended in FY'89 of \$45,000. During 1989, the Crime and Justice Foundation mediated a total of 290 referrals and assisted in overseeing the payment of \$32,213 in restitution. The figure of 290 referrals represents, in most instances, referrals comprised of multiple defendants and multiple complaints.

Without the mediation services of the Crime and Justice Foundation, those defendants and complaints currently brought to resolution through mediation will be returned to the forum of the courtroom and will increase the daily criminal workload.

Repairs to aging equipment in the Boston Municipal Court Department have been frequent in recent years.

Further reductions would preclude the repair of equipment which is vital to the recordation of courtroom proceedings and the functioning of the respective clerks' offices. The Department cannot conduct court sessions if recordation equipment is inoperable.

Postage costs for the Boston Municipal Court Department have increased from \$78,000 in FY'89 to an estimated \$107,000 in FY'90. Postage costs are incurred in the mailing of subpoenas, summons and official court documents. In order to avoid a shortfall in the monies available for postage, the Department has entered into an agreement with the Office of the District Attorney of Suffolk County whereby the District Attorney's office pays for the cost of postage for subpoenas mailed to witnesses for appearance at jury trials in the Boston Municipal Court Department.

A reduction in the monies available for postage would jeopardize the ability of the respective clerks to notify parties and to issue summonses and subpoenas in the furtherance of justice and in compliance with statutory provisions and rules of court.

Boston Municipal Court Department

February 28, 1990

CASELOAD AND INCREASED JURISDICTION

Civil and criminal entries in the Boston Municipal Court Department in FY'89 totalled 73,759.

Since 1978, the Department's jurisdiction has been expanded to include:

-- serious felonies (e.g. infliction of serious bodily injury or homicide while operating under the influence),

-- all requests placed by criminal defendants for a jury trial from the divisions of the District Court Department in Suffolk County,

-- all small claims jury trials in Suffolk County, and

-- an increased number of cases transferred from the Superior Court Department to the Boston Municipal Court Department due to an increased ceiling of recovery (raised from \$7,500 to \$25,000 since 1985).

The number of defendants requesting jury trials has increased from 1,307 in FY'80 to 4,012 in FY'89. It should be noted that 62% of all requests are for a first instance jury trial, i.e., the request for a jury trial is not an appeal and the defendant's case will be heard for the first time in the Boston Municipal Court Department. The percentage of first instance jury requests has been spiralling since FY'80 when first instance requests represented only 24% of all jury requests.

The remand sessions of the Department are presided over by two recall justices in space provided in the Cambridge Division of the District Court Department. In FY'89, 916 cases were transferred from the Superior Court Department to the remand sessions of the Boston Municipal Court Department.

If the two justices presiding over the Department's remand sessions are not recalled due to budget constraints, over 900 civil cases would have to be absorbed into the caseload of the Department's present complement of eleven justices.

Effects and Implications of Present and Future Budget Reductions on the District Court

The District Court is the workhorse of the judiciary. It is where the largest number of cases are filed, where most criminals are punished and where most court revenue is collected. The proposed 11% budget reduction will do the greatest damage in the District Court.

Even before the current budget constraints, District Court workload had been increasing dramatically. Between 1976 and 1986, District Court caseloads changed as follows. They are even greater today.

Juries of six	+368%
Non-support	+300%
Drunk driving	+132%
Mental health	+132%
Narcotics	+113%
Family abuse (21,000)	NEW
Children in need of services	+80%
Victim compensation	+73%
Interstate support	+68%
Other serious motor vehicle cases	+65%
Remands	+48%
Care and protection	+39%
Regular criminal	+26%
Small claims	+17%
Evictions	+17%
Juvenile	-8%
Regular civil	-18%
Supplementary process	-55%
Parking	-100%

By contrast, the number of local District Court personnel authorized by the legislature to handle this work grew at an average annual rate of only 1.5% between 1980 and 1989.

Personnel

The District Court presently has 237 unfilled vacancies, a vacancy rate of 8.4%. This includes 130 procedures clerks, 50 probation officers, and many others. The number will probably reach 275 by the end of this fiscal year. A further 11% budget reduction will require elimination of approximately 295 more positions, for a total of 570 unfilled positions. That will be 20% of the work force--one out of every five positions.

District Court work is labor intensive. It requires people to process work. (Even with increased computerization, people

are essential to enter data.) The absence of personnel means that court activities must be prioritized and that certain functions are not performed. Yet, all functions that the District Court performs are established by statute and thus mandated. The elimination of certain activities means, by definition, that legally required actions do not take place.

The following are some of the past and future consequences of personnel shortages.

- Courtroom work is directly impacted. Already District Court judges are often forced to hold sessions without a session clerk present. This slows the courtroom process and detracts from public confidence. Further reductions in personnel will mean an even greater decline in the quality and appearance of courtroom proceedings.

- Staff reductions that translate themselves into the elimination of court officers will almost certainly cause the cancellation of sessions due to problems of security. Security has become a major day-to-day concern in many district courts. Courts are already conducting their business in an atmosphere of growing fear in many places. Limited court officer availability is also translating itself into increased physical threats and prisoner incidents, increased escapes from courthouses, increased suicides by unmonitored prisoners and increased injuries to persons placed in custody with other prisoners. It is becoming increasingly difficult to insure public safety in the district courts.

- Civil motor vehicle infraction (CMVI) hearings by clerk-magistrates will be delayed. These minor motor vehicle hearings are often a citizen's principal contact with the court system, and deserve prompt hearing. A recent survey indicates that, on average, hearings are now delayed some three months. This time delay will increase and further frustrate the conclusion of these matters.

- The processing of Registry abstracts has suffered and will continue to suffer. Registry abstracts trigger, among other things, the suspension of drivers licenses for various reasons, including non-payment of CMVI fines. They are the principal means of collecting these fines. Non-submission of abstracts, with the resulting elimination of any threat of official action, will have the impact of reducing the payment of motor vehicle fines, which in turn will mean decreased revenue for the cities and towns, and the state. A recent effort to bring courts up to date on CMVI processing has been successful in a number of court locations, but the backlogs will soon reappear.

- Small claims processing is already delayed in many locations due to the absence of sufficient personnel. A cap will likely be required on the number of small claims actions that will be accepted for processing. Small claims is intended to be

a prompt, simple, efficient means of resolving citizen disputes. The unavailability of this mechanism will be frustrating to many people who come to court seeking resolution of claims against customers, merchants, etc. It is important that the District Court, as the community court, be able to offer an effective small claims process to consumers and business people alike.

- Despite the emphasis placed on civil cases by the Supreme Judicial Court's time standards initiative, civil case processing is suffering. Civil case processing requires personnel with specialized knowledge. As vacancies in these positions remain unfilled, it is difficult to process the work with personnel who are untrained in civil and busy with other court work.

- The issuance of executions--already backlogged in many courts--may have to be suspended. An execution is a document permitting the winner in a civil suit to collect on his or her judgment. Further delays in the issuance of executions will leave people with uncollectible judgments.

- Unprocessed court work will manifest itself in other harmful ways. The issuance of warrants for the arrest of defaulting defendants will be slowed, reducing the effectiveness of law enforcement efforts and permitting defendants to ignore the court with impunity. The recall of warrants, where appropriate, will also be made more difficult, leading to increased incidence of arrests of persons for whom warrants were not recalled when fines were paid.

- Reductions in staff will also lead to increased delays in returning papers from jury sessions to primary courts. This is already a problem, and poses a public safety hazard when persons who are supposed to be on probation go unsupervised because of the absence of timely transmission of information.

- Unprocessed or uncompleted court work means uncollected revenues in filing fees, fines, etc. Court revenues will decrease just at a time when increased revenues are needed. The vast bulk of court revenues comes from the District Court. Whatever monies are saved by reduced court funding will be offset by reductions in revenue.

- Most important: It is essential that the courts be in sound operating condition if they are to respond effectively to the increased incidence of drug and weapons offenses in urban areas. Increased police action alone will be counterproductive if the courts do not have the resources to hear these cases and deal with them effectively.

Non-personnel

Budget reductions will also have dramatic impacts beyond caseload processing.

- Reduction in funding will likely mean a continued slowdown in judicial appointments. It has already contributed to a reduction in the number of recalled judges available. Reduced judicial manpower translates itself into delayed hearings, rushed proceedings and a general decline in the quality of courtroom proceedings. The practical impacts are: longer periods between arraignment and trial, less time for sentencing decisions, greater use of plea bargaining and a general attitude that quality must be sacrificed for quantity. On the criminal side the result is decreased public confidence in the courts and increased confidence by criminals that they can "beat the system." This is already occurring because the District Court has approximately 21 judicial vacancies, the highest rate in history.

- Judicial vacancies impact the civil side as well. A plan to establish special judicial circuits for the handling of care and protection cases, a category of business that requires special handling, has been delayed and will likely be further delayed. Civil circuits for the prompt handling of regular civil business in accordance with the Supreme Judicial Court's directives on civil time standards will likewise have to be cut back or eliminated.

- Certain courts will have to be closed. Courts are an important part of the communities where they are located. No community wishes to see its court close because, aside from community pride, serious dislocations result. Persons using the court must travel to farther distant court locations--often off public transportation lines--to transact business. This is important in the District Court because they are the people's courts. Ordinary people--not just attorneys--frequent the District Court and must have ready access to them.

- Court closings also impact local court budgets and local law enforcement because they inevitably mean that local police departments must travel farther to reach court. This results in the necessity for increased police travel expenditures and more overtime pay for police officers. More police time spent travelling to court means less time spent on active law enforcement.

- The provision of essential services to judges, such as the modest law clerk program that was begun several years ago, will have to be reduced or eliminated.

- Mediation, an innovative program with the dual effect of facilitating caseload and improving the quality of justice in many court locations, will likely be eliminated. The

fragile but overwhelmingly successful mediation programs operating in the District Court have already suffered a 50% reduction in Trial Court funding in fiscal 1990 from their already modest fiscal 1989 levels.

- Local court oversight will have to be reduced, resulting in less systemwide accountability. The flow of essential management information will be reduced. At a time when current information on the status of court operations is essential, we will be in the weakest position to obtain it.

- District Court budget reductions will be compounded by reductions in court-related agencies. This has already begun to occur. Reductions in the budgets of the District Attorneys have resulted in their withdrawing from much District Court activity, leaving prosecution to non-legally trained local police prosecutors and returning the prosecutorial function in the District Court to where it was 15 years ago. Moreover, the police departments themselves are suffering budget cuts and thus less able to assume this prosecutorial burden.

- Similarly, reductions in funding for agencies such as the court clinics will essentially eliminate the courts' ability to effectively deal with mental health issues as required by law.

- Large scale lay offs will fall unfairly on female employees because most of the clerical staff is female. Additionally, reduced staffing will result in high utilization of sick time as people become overburdened through trying to "make up" for the absence of other personnel. Already it is not uncommon for District Court clerical personnel to come in on Saturdays and take work home. While this dedication is commendable, court employees should not have to bear these burdens. Funding was available in the past to provide temporary clerical personnel in courts where the need was the greatest. This funding has now been eliminated, however, and thus even this modest curative has been lost.

HOUSING COURT DEPARTMENT

The Housing Court has always prided itself on its ability to deliver justice efficiently and effectively. The freeze on hiring of vacant positions has seriously jeopardized the Court's ability to deal quickly with the serious housing issues affecting the citizens in the cities and towns within its jurisdiction.

Personnel Issues

- The loss of one of the two judges in the Boston division has resulted in the postponement of civil jury trials.

- In order to continue the daily flow of paperwork in the Boston division, with a 14% reduction of clerical support in Boston, time consuming tasks such as the assembling of records for an appeal are delayed.

- In the Administrative office, staffing has been reduced by two-thirds. Due to unfilled positions, there is no clerical help. The impact of this is severe; at a minimum, there will be inordinate delays in issuing legal opinions, and in filing required administrative reports.

- While the Worcester division has automated equipment, some of it sits idle as no staff are available to operate it.

Non Personnel Issues

- Work has been prioritized to minimize suffering endured by the public in matters relating to housing.

- The Worcester County Division's geographic and subject matter jurisdiction has been Legislatively expanded, with no concurrent increase in the resources of the division to handle the increased workload.

- Lack of funding for personnel, equipment and related costs have precluded the opening of the Legislatively mandated new Northeastern and Southeastern divisions.



Trial Court of The Commonwealth Juvenile Court Department

Administrative Office

Room 175 Court House, Government Center

Boston, Massachusetts 02108

FRANCIS G. POITRAST
CHIEF JUSTICE

EDWARD C. CARROLL
ADMINISTRATIVE ASSISTANT

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WILLIAM T. AHERN
ADMINISTRATIVE ASSISTANT

The Juvenile Court Department's new case filings thus far in 1990 compared with the same period last year shows that while requests for jury trials remained about constant, new delinquency cases fortunately declined 20%, new CHINS cases declined 8% while new child abuse/neglect cases increased 74%. We had already experienced a 35% increase in child abuse/neglect cases in fiscal year '89 compared with fiscal year '88.

If the anticipated budget restrictions are imposed in the Fiscal Year '91 appropriation the implications for the Juvenile Court Department will be drastic. The court's efforts to protect innocent victims of child abuse/neglect and to redirect youthful offenders to useful citizenship will be severely compromised.

The following outlines some areas of immediate impact.

Personnel

The Juvenile Court Department workforce will require additional reduction despite a current overall vacancy rate of 16.2% of authorized positions. Despite attrition and no new hires, layoffs will be necessary. This will have the following impact:

- Reduction in the number of court officers will seriously effect the overall safety of Judges, support and agency staffs and children and families before the Court.

- Further staff reduction in the offices of the Clerk-Magistrates will severely limit their ability to support a sufficient number of court sessions and will further cripple their ability to satisfactorily fulfill their overall responsibilities.

- Printing and distribution of essential forms is being done as frugally as possible, and every economy is observed in the printing of case jackets, letterhead and envelopes. No further reductions in the printing budget can be sustained.

CONCLUSION:

Fiscal Year 1991 reductions in the Judiciary's budget will have a very serious impact on the Land Court Department which is already reeling from Fiscal Year 1990 cuts, especially in the area of personnel. The issue is whether or not the Department will be able to continue to serve the public at all.

PROBATE AND FAMILY COURT DEPARTMENT

The Probate and Family Court Department was given an initial appropriation of \$17,560,583 for Fiscal 1990. It was further reduced in January, 1990 to \$16,682,554. These reductions, even after extensive personnel reductions, have resulted in an anticipated deficiency of approximately \$1.1 million in salary accounts.

The Department has an authorized personnel strength of 655 positions. There are now approximately 70 vacant positions statewide, giving a vacancy rate of 10.7%. These vacancies, as well as those which are anticipated for the remainder of the current fiscal year have severely impacted the way the Court does business. Cuts in the central non-personnel accounts administered by the Office of the Chief Administrative Justice have had different, yet significant impact also.

Personnel

The effects of personnel reductions have impacted the various divisions of the Department in different ways, depending on where losses have occurred. Examples, taken from different divisions are as follows:

- Child Support - The court's ability to remain in compliance with federal time standards for hearing support cases is in jeopardy, because matters cannot be assigned quickly. This will result in a loss of federal reimbursement for AFDC expenses or the imposition of a costly masters system. Delays in hearing child support cases brought by the Department of Revenue have a direct bearing on revenue generation, as the support awards are payable to the Commonwealth and will affect federal reimbursement for AFDC expenses. In addition, failure to fill clerical vacancies in Family Service Offices directly affect the timely distribution of support payments to families and children.
- "Brain Drain" - Senior, experienced clerical employees, who are the "guts" of the registries are retiring or leaving in large numbers, due to the additional burdens placed on them by short staffing and the failure of the Trial Court to give cost-of-living salary increases. This loss of institutional memory will take years to recoup.
- Mediation - Short staffing in Family Service offices is hindering the court's ability to mediate cases brought before it; this compounds judicial trial delay by necessitating more hearings by judges in matters which would otherwise have settled in mediation.

- Family Service Investigations - Short staffing in Family Service Offices has limited the number of investigations which can take place and lengthened delay in receiving reports. Judges are called upon to predict outcomes without adequate background information especially in cases alleging abuse or neglect. Severe cases are being investigated; borderline cases may not be.
- Issuance of Citations and Decrees - The probate business of the Department, unlike that of other courts, is carried on outside the courtroom; the registry processes petitions, citations, decrees and appointments with almost no judicial action. The delays in moving these cases such as wills, administrations, guardianships, etc., is severely impacted by clerical staffing shortages. It is taking weeks to months in some courts to have a will probated because of delays in citation issuance.
- Trial Delay - Short staffing has resulted in increased delay in marking cases for trial, since papers cannot be pulled and checked as quickly. Judgments are not being prepared and docketed as quickly as they should leaving divorcing parties in limbo.
- Courtroom staffing - Due to shortages in the number of available court officers, some judges are sitting in court with no protection; this is especially dangerous in the domestic context, where tempers flare constantly.

Non Personnel

- Microfilming/Records Storage - The Court has been forced to discontinue its microfilming projects due to inadequate funding. This eliminates our ability to move case files out of courthouses into permanent storage, which exacerbates courthouse crowding and creates dangerous working conditions in the registries. No new filing systems are being acquired to handle the new business of the court, resulting in case files being stored in cardboard boxes on the floors of registries.
- Stenographic Services - The Court has been forced to limit the use of *per diem* stenographers to record trials, utilizing tape recording equipment in their stead. While this enables cases to be heard, appellate records and transcripts for use in making judgments are difficult to obtain when needed.
- Guardian ad litem Appointments - The Court has restricted the appointment of guardians ad litem to investigate domestic cases. A GAL performs a similar service to Family Service Officers in these cases; now neither alternative is readily available to the Court.

IMPLICATIONS OF A REDUCED BUDGET

SUPERIOR COURT

PERSONNEL

These are some of the consequences that lack of adequate personnel has had on the Superior Court.

Generally,

1. The docketing of court papers, the official record of the Court, is weeks and often months behind.
2. The preparation of executions, the document necessary for a successful litigant to be paid, is months behind.
3. The preparation of transcripts, a necessary component to the processing of appeals, is months and in some instances, years behind.
4. The assembly of the record, the last step of the Superior Court in processing an appeal to an appellate court, is months behind.
5. The input and collection of data, which are necessary to measure and monitor the Court's business and which is a foundation upon which decisions are made, are not current.
6. The business of the Court has increased greatly in the last five years, but we are conducting the same number of court sessions as we did then. At that time, there were many recall judges and judges from other departments that sat regularly in the Superior Court. Today, the number of recall judges and judges from other courts have been greatly reduced and although the statutory number of Superior Court justices has been increased by fifteen, a majority of these positions remain unfilled.
7. Security has been compromised by inadequate numbers of court officers.

Specifically,

1. Bristol County has three courthouses (New Bedford, Taunton and Fall River) and runs five court sessions each month. Presently there are three unfilled assistant clerk positions which leaves four assistant clerks to run five sessions.
2. Franklin County has only one assistant clerk and that position remains unfilled.

3. Hampden County has a serious criminal caseload and it is necessary to run seven sessions each month. Imminently they will be down to five assistant clerks.
4. The Superior Court is a court of record. There have been instances in which court has closed down because of the unavailability of a court reporter.
5. The use of masters and conciliators has been an effective A.D.R. (alternative dispute resolution) mechanism. This has already been substantially reduced and may have to be eliminated. This would further slow the wheels of justice and increase the workload of judges.

NON-PERSONNEL

These are some of the results of insufficient funding of non-personnel items:

1. The Superior Court is a circuit court and to limit travel would affect the strengths that "riding the circuit" brings to a judicial system.
2. If we attain the full complement of Superior Court judges and maintain the same number of recall judges, there will not be enough courtrooms.
3. The cramped quarters of the Suffolk Superior Court Clerk's Office for Civil Business has been well documented and does not need further comment.
4. In some locations a holding cell consists of a room with a lock.
5. Because of inadequate heating, jurors have had to wear winter coats while sitting in the courtroom. (ex. Suffolk Superior)
6. Conversely in the summer, temperatures have exceeded 90 in some courtrooms (ex. Brockton)
7. There are tables and chairs in some of the jury deliberation rooms that would be rejected by Morgan Memorial.
8. There was an instance wherein ceiling plaster fell and just missed hitting a judge.
9. Most courts have inadequate storage facilities. In Plymouth, for example, court records are stored in a dank cellar and have been covered with mold and mildew.
10. Word processing capability which is far from state-of-the-art has not yet come to most of the Clerks' Offices.

IMPLICATIONS OF AN 11% BUDGET CUT IN THE ACCOUNT
OF THE OFFICE OF JURY COMMISSIONER (OJC)

FY 91

28 Feb 90

PERSONNEL

1. To reach the 15% vacancy rate, as imposed out of necessity by the Office of the Chief Administrative Justice, the OJC will lose one additional authorized position. This is critical for the following reasons:
 - a) As of this date, the OJC had planned to be conducting its business with 33 authorized positions. In fact, it has only 25 authorized positions. (Requests for new positions were not authorized by the legislature in the FY 89 and FY 90 budgets)
 - b) Of the current 25 positions, 3 are vacant due to a hiring freeze, and 1 remains unfilled due to workers compensation.
 - c) The responsibilities of all personnel at the OJC have presently doubled and, in some cases, tripled. The loss of even one additional position will drastically reduce the OJC's capability of providing requisite services.
 - d) FY 91 was to be the year for the OJC to request additional positions in order to allow it to conduct its statewide business properly. As a result of the fiscal problems, however, no new positions were requested.
2. If lay offs become a reality resulting in an across the board 22% vacancy rate for the Trial Court, the OJC will lose an additional 2 positions. The remaining 18 authorized positions will not be enough to allow this office to effectively administer the jury system.
3. Presently the OJC makes use of 2 temporary agency employees to open the tremendous amount of mail received daily at the central office. The loss of this appropriation, with no new 01 permanent positions in sight, will drastically hamper OJC abilities to keep abreast of the 80,000 pieces of mail that flow through its office each week.

IMPLICATIONS OF AN 11% BUDGET CUT IN THE ACCOUNT
OF THE OFFICE OF JURY COMMISSIONER (OJC)

FY 91

28 Feb 90

PERSONNEL, Continued

4. No cost of living increases, coupled with no chance for reclassifications, will only add to the extant tottering morale situation. It is safe to assume that some employees will move on to other careers vacating their authorized positions which will not be filled due to hiring freezes.
5. To sum up the PERSONNEL situation, it is safe to say that the OJC has already reached an extremely critical stage in which it finds its ability to provide necessary jury services to the Courts diminished. Further reductions in personnel will only impact adversely on an already difficult situation.

NON PERSONNEL

1. TRAVEL: The elimination of in-state travel reimbursement will result in a severely limited operation of the OJC's Western Regional Office at the Hampden County Hall of Justice, Springfield, Massachusetts.

1 manager and 1 secretary are stationed at this office and are chiefly responsible for overseeing the jury system's operation in the Counties of Berkshire, Franklin, Hampden, Hampshire and Worcester. They also maintain a working liaison with local city and town clerks in said counties. It is absolutely necessary for the manager of this office to travel regularly among the five counties in the performance of his duties and responsibilities for the OJC.
2. As the Western Regional Manager must travel regularly, other persons stationed in the OJC's Boston office must also travel to courts, and city and town halls, to perform their assigned roles. Elimination of in-state travel reimbursements will only hinder these necessary efforts.

IMPLICATIONS OF AN 11% BUDGET CUT IN THE ACCOUNT
OF THE OFFICE OF JURY COMMISSIONER (OJC)

FY 91

28 Feb 90

NON PERSONNEL, Continued

3. PRINTING: In order to manage the statewide jury system certain forms must be mailed to jurors. Chief among these forms are juror summonses, juror handbooks, certificates, checks, standby notices, and other various notices of postponements, courthouse transfers, and disqualifications. Any reduction in the FY 91 printing account will automatically result in a reduction of the number of forms ordered. Simply stated, by not possessing the number of forms needed to conduct our jury business, we will find ourselves in the position of not being able to comply with the mandates of C.234A.

4. REPAIRS: A reduction in this subsidiary results in our inability to continue repair maintenance contracts on OJC equipment. As we have just left a fiscal year in which no new equipment was purchased, it follows that the older equipment in use at the OJC's central office, as well as in the 26 jury-pool locations, will soon require servicing.

As the jury system makes use of a considerable number of machines, any reduction in this account will only result in paying a higher price for services and repairs.

5. POSTAGE: The OJC is, by necessity, a large-volume mailing operation. 50,000 pieces of First-Class mail are sent each week from the OJC's central office. In addition, another 30,000 pieces are received and processed each week.

A reduction in the postage account will simply "stop us cold." In other words, if we cannot mail summonses and other forms, as mandated by C. 234A, we will be unable to conduct our business.

Please remember, following the submission of the FY 91 budget request, the U.S. Postal Service announced an increase in the First-Class rate up to \$.30 per piece, to take effect in the spring of 1991. As this increase was not accounted for at the time of budget submission, it must be addressed at the proper time.

IMPLICATIONS OF AN 11% BUDGET CUT IN THE ACCOUNT
OF THE OFFICE OF JURY COMMISSIONER (OJC)

FY 91

28 Feb 90

NON PERSONNEL, Continued

6. OFFICE ADMINISTRATION: SUPPLIES: A mail oriented operation, such as the OJC, has a great intrinsic need for these items. Without these supplies, our operation will be duly hindered.
7. EQUIPMENT: As with any large-scale operation relying on specific items of equipment, replacement of those items must be factored into its budget. As such, the oldest equipment located in jury pools that have been in operation for up to ten years, is presently scheduled to be replaced. As some of this equipment is experiencing failure on a regular basis, the need for its replacement becomes important. In addition to the replacement of outdated and failing equipment, the fact that the OJC is now operating on a statewide basis dictates an immediate upgrade to equipment required by its greatly enlarged mailing and juror-information telephone functions.

The FY 91 budget as proposed by the Executive Branch, does not allow for the replacement of worn equipment or for the purchase of additional equipment. Both items are essential to our continuing operation on a statewide basis.

OFFICE OF THE COMMISSIONER OF PROBATION

In FY89, cases under supervision by the Probation service totalled 133,658. In addition to the active supervision of cases, the probation service also collected \$178,566.038, a 21% increase over collections in 1987.

Public Safety Issues

- The probation service is short 128 probation officer positions.

- When a judge makes a sentencing decision in effect he has made a "risk management decision" with the expectation that a certain level of supervision will take place thus reducing the probationers criminal behavior. If we lack adequate staff to supervise probation cases we increase the public's safety risk in a community.

- Shortage of funds for special programs for drug and alcohol treatment, adult literacy, employment, and family counseling programs reduce the effectiveness of probation supervision, thus further endangering public safety.

- Proposed statewide programs such as Intensive Supervision, violence reduction programs, special drug programs, adult literacy programs, proven effective on pilot basis, will not be implemented due to lack of both funds and adequate personnel.

- As more clerical support positions are left unfilled in the court system, probation officers are required to pick up more of these clerical functions, thus reducing the amount of time to supervise probation offenders and therefore increasing public risk.

TRIAL COURT LAW LIBRARIES

ADMINISTRATION

- Trial Court libraries will maintain only basic Massachusetts collections and basic Federal collections.
- No more than five of the eighteen libraries will be designated as research collections which will include maintenance of multi-jurisdictional and secondary research materials.
- Patrons will be expected to drive to the research library in their region or wait to receive materials via interlibrary loan.

CENTRAL LAW BOOK ACCOUNT

- Anticipated funding allows only for maintenance of Superior Court lobby materials, as centralized in 1988.
- Activities to cease will include:
 - Mass Advance Sheets subscription for District and Superior Court justices.
 - Mass Lawyers Weekly subscriptions for justices.
 - Home Resources materials for travelling justices.
 - Probate Court Department purchases to meet new and changing rules and jurisdiction.
 - Law collections for regional District and Superior Court law clerks.
 - Bulk purchasing of BNA materials such as USLW, Mass. Register and GLM.

COMPUTER ASSISTED LEGAL RESEARCH

- No new users will be added as authorized users, including newly appointed judges.
- Each user will be limited to no more than ten hours of use per year. In FY89, users were asked to stay under eighteen hours per year. In FY90, users were asked to stay under twelve hours per year.

LEGISLATIVE PROPOSALS

We offer for your consideration the following legislative proposals which, in a time of severe fiscal constraints, are crucial to permit the Judicial Branch to continue to function.

The first two proposals would permit the Trial Court to transfer whatever funds and personnel are available to minimize the effect of the budget cuts and keep as many services operating as possible.

The loss of funds and personnel has already resulted in the closing of several courts and will necessitate the closing of more. In an attempt to limit the number of complete closings we are considering court consolidations. The bills which would consolidate Chelsea with East Boston and Charlestown with the Boston Municipal Court were developed as a result of Chapter 203 of the Acts of 1988. Chapter 203 required the Court Facilities Unit, comprised of Legislative and Judiciary Branch members, to make recommendations to streamline the Judiciary and make it more efficient where possible. The Court Facilities Unit recommended that these courts be consolidated in response to the statutory requirement. Facing ever shrinking resources and even greater demands these and other consolidations will be necessary.

The Trial Court appears to be second only to the Department of Revenue in the amount of monies it collects for the Commonwealth. Thus, not only will reduced funding directly affect our ability to impart justice but it will also cripple the Trial Court's ability to generate monies for the General Fund. In this vein, we propose that the legislature consider including revenue retention measures which will allow us to maintain these functions. As an example, we offer language to establish a Probation Fee Trust Fund to recycle part of the probation fees which we collect.

We urge your favorable consideration of these proposals as they are key to the preservation of our ability to render justice as required by our Constitution.

Notwithstanding any other provision of law to the contrary, the Chief Administrative Justice may transfer amounts appropriated in Chapter two hundred and forty, chapter two hundred and eighty-seven and chapter three hundred and two of the acts of nineteen hundred and eighty-nine for any item of appropriation within the trial court, except item 0332-0200, to other items of appropriation within the trial court, subject to the approval of the house and senate committees on ways and means.

RELATIVE TO THE POWERS AND DUTIES OF THE CHIEF
ADMINISTRATIVE JUSTICE

Section 9 of Chapter 211B of the General Laws is hereby amended by striking out the second sentence in subparagraph (iii), which begins "The chief administrative justice may assign any non-judicial", and inserting in place thereof the following sentence:-

The chief administrative justice may assign any non-judicial personnel among the various departments, divisions or places for holding court, but in no event shall any such transfer be more than a reasonable distance from the place where such personnel is appointed, assigned or employed.

Chapter 218, Section 1 of the General Laws is hereby amended by inserting at the end thereof the following: —

Jurisdiction over any case or over all cases of a Division of the District Court Department may be transferred to and heard in an adjoining Division, or in the Boston Municipal Court Department after consultation with the Administrative Justice of that Department when said Department adjoins said Division, upon the designation of the Administrative Justice of the District Court Department and the approval of the Chief Administrative Justice.

Chapter 218, Section 1 of the General Laws is hereby amended by inserting at the end thereof the following: —

Notwithstanding any special or general law to the contrary, the Chief Administrative Justice shall have the authority to consolidate Divisions of the District Court Department, after consultation with the Administrative Justice of the District Court Department.



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-

AN ACT

PROVIDING FOR THE CONSOLIDATION OF THE
CHARLESTOWN DIVISION OF THE DISTRICT COURT AND
THE BOSTON MUNICIPAL COURT DEPARTMENT OF THE
TRIAL COURT

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the
authority of the same, as follows*

SECTION 1.

Section 2 of chapter 211B of the General Laws, as appearing in the 1986 Official Edition and as most recently amended by Section 7 of chapter 203 of the Acts of 1988, is hereby amended by striking the number "eleven" and inserting in place thereof the number "thirteen"; and said section is further amended by striking the number "one hundred and sixty-eight" and inserting in place thereof the number "one hundred and sixty-six."

Section 2. The first paragraph under the caption of Suffolk in section 1 of chapter 218 of the General Laws, as appearing in the 1986 Official Edition and as most recently amended by Section 5 of chapter 203 of the Acts of 1988, is hereby amended by striking out

the first paragraph and inserting in place thereof the following:-

The municipal court of the city of Boston, held at Boston; wards three, four and five of Boston as they existed on February first, eighteen hundred and eighty-two; provided that in criminal matters said court shall have exclusive jurisdiction in that part of said wards which is under the care, custody and control of the lower basin division of the Metropolitan District Commission and in so much of the Charles river basin, as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine as affected by chapter two hundred and forty-five of the General Acts of nineteen hundred and sixteen as is within the district of said court; and wards six, seven, eight, nine, ten, eleven, twelve, sixteen, seventeen and eighteen of Boston as they existed on February first, eighteen hundred and eighty-two and in criminal cases, concurrently with the municipal courts of the Roxbury and Brighton districts, the second and third district courts of eastern Middlesex, and the district court of Newton, respectively, so much of the Charles river basin, as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine, as affected by chapter two hundred and forty-five of the General Acts of nineteen hundred and sixteen as is within the districts of said courts.

Section 3. The third paragraph under the caption of Suffolk in said section 1 of said chapter 218, as so appearing, is hereby further amended by striking out the third paragraph.

Section 4. Section 3 of said chapter 218 is hereby amended by striking out the words "the municipal court of the Charlestown district."

Section 5. The first paragraph of section 10 of said chapter 218 is hereby amended by striking out the words "municipal court of the Charlestown district."

Section 6. The first sentence of the first paragraph of section 53 of said chapter 218 is hereby amended by striking out said sentence and inserting in place thereof the following:

There shall be a clerk and fourteen assistant clerks of said court for criminal business and a clerk and fifteen assistant clerks of said court for civil business.

Section 7. Clause (9) of the first paragraph of section 62 of said chapter 218 is hereby amended by striking out the words "municipal court of the Charlestown district."

Section 8. Class I of paragraph (1) of section 79 of said chapter 218 is hereby amended by striking out the words "municipal court of

the Charlestown district."

Section 9. All cases and proceedings pending in the municipal court of the Charlestown division of the district court department, held at Charlestown, shall be transferred to and be pending in the Boston municipal court department. All writs, process, judgments and orders issued by or returnable to the municipal court of the Charlestown division of the district court department, held at Charlestown, shall continue with the same force and effect and be returnable to the Boston municipal court department, and all rights and liabilities of the parties in any civil, criminal, juvenile or other proceeding previously commenced shall continue in full force and effect.

Section 10. Notwithstanding the provisions of any general or special law to the contrary, upon the effective date of this act, the justices of the municipal court of the Charlestown division of the district court department shall be transferred to the Boston municipal court department without loss of seniority, vacation, sickness or retirement rights, and shall become associate justices within said department.

Section 11. Notwithstanding the provisions of any general or special law to the contrary, the clerk-magistrate for the municipal court of the Charlestown division of the district court department shall be transferred to the Boston municipal court department and shall become a first assistant clerk for said court for civil

business upon the effective date of this section; provided, however, that he shall suffer no loss in his rate of compensation as of the effective date of this section; and provided further, that he shall continue to be eligible for cost of living and step rate salary increases as if he were still a clerk-magistrate of a division of the district court department after the effective date of this section.

Section 12. Notwithstanding the provisions of any general or special law to the contrary, the chief probation officer who is senior in length of service between the chief probation officers of the Charlestown division of the district court department and the Boston municipal court department, on the effective date of this section, shall become and have the powers, duties and compensation of chief probation officer of the Boston municipal court department. The chief probation officer who is junior in length of service between the chief probation officers of the Charlestown division of the district court department and the Boston municipal court department shall become a first assistant chief probation officer of the Boston municipal court department; provided, however, that he shall suffer no loss in his rate of compensation as of the effective date of this section; and, provided further, that he shall thereafter continue to be eligible for cost of living and step rate salary increases as if he were still a chief probation officer of a division of the district court department after the effective date of this section. Upon the departure or retirement of the first assistant chief probation

officer appointed by this Act, the position of first assistant chief probation officer created by this Act shall be eliminated.

The assistant chief probation officer of the municipal court of the Charlestown division of the district court department shall be transferred to the Boston municipal court department and shall become an assistant chief probation officer for said court department upon the effective date of this section.

The probation officers of the municipal court of the Charlestown division of the district court department shall be transferred to the Boston municipal court department and shall become probation officers for said court department upon the effective date of this section.

Section 13. Notwithstanding the provisions of any general or special law to the contrary, all clerical assistants, court officers, and other personnel appointed to the municipal court of the Charlestown division of the district court department shall be transferred to the Boston municipal court department upon the effective date of this act.

Section 14. Except as otherwise provided in this act, all personnel affected by sections one to thirteen, inclusive, of this act shall continue to serve in the judicial system of the commonwealth without loss of seniority, vacation, sickness or retirement rights. The provisions of this section shall not prevent any person from being removed for cause in any manner

Section 15. Notwithstanding the provisions of any general or special law to the contrary, the city of Boston is hereby authorized to take the land and the building thereon currently housing the municipal court of the Charlestown division of the district court department; provided, however, that the city of Boston shall renovate and refurbish said land and the building thereon and that said renovated and refurbished land and the building thereon shall be used only as an area police station for the Charlestown neighborhood and community; and provided further, that if the land and the building thereon are not utilized by the city of Boston as an area police station for the Charlestown neighborhood and community, then said land and the building thereon shall revert to the commonwealth according to the provisions of chapter 203 of the Acts of 1988.

Section 16. The provisions of this act shall take effect on January first, nineteen hundred and ninety.



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-

AN ACT

PROVIDING FOR THE CONSOLIDATION OF THE CHELSEA
AND EAST BOSTON DIVISIONS OF THE DISTRICT
COURT DEPARTMENT

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the
authority of the same, as follows:*

SECTION 1.

The caption of Suffolk in section 1 of chapter 218 of the General Laws, as appearing in the 1986 Official Edition and as most recently amended by section 5 of chapter 203 of the Acts of 1988, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:

The district court of Chelsea, held at Chelsea; Chelsea; Revere; Winthrop; and wards one and two of Boston as they existed on March first, eighteen hundred and eighty six; provided that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel, so-called, and Lieutenant William F. Callahan, Jr. tunnel including any property, toll plazas and approach roads

thereto under the ownership, care, custody and control of the Massachusetts Turnpike Authority as provided by chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight.

Section 2. The caption of Suffolk in section 1 of said chapter 218, as so appearing, is hereby further amended by striking out the sixth paragraph.

Section 3. Section 3 of said chapter 218 is hereby amended by striking out the words "East Boston district court" and inserting in place thereof the following:-

district court of Chelsea.

Section 4. The first paragraph of section 10 of said chapter 218 is hereby amended by striking out the words "district court of Chelsea."

Section 5. The first paragraph of section 10 of said chapter 218 is hereby amended by striking out the words "East Boston district court."

Section 6. The first paragraph of section 10 of said chapter 218 is hereby amended by inserting after the words "municipal court of the West Roxbury district" the following:-

district court of Chelsea.

Section 7. Section 48 of said chapter 218 is hereby amended by striking out the words "East Boston district court" and inserting in place thereof the following:-

district court of Chelsea.

Section 8. Section 49 of said chapter 218 is hereby amended by striking out the words "East Boston district court" and inserting in place thereof the following:--

district court of Chelsea.

Section 9. Clause (4) of the first paragraph of section 62 of said chapter 218 is hereby amended by inserting after the words "third district court of eastern Middlesex" the following:-

district court of Chelsea.

Section 10. Clause (7) of the first paragraph of section 62 of said chapter 218 is hereby amended by striking out the words "East Boston district court."

Section 11. Clause (8) of the first paragraph of section 62 of said chapter 218 is hereby amended by striking out the words "district court of Chelsea."

Section 12. The second paragraph of section 62 of said chapter 218 is hereby amended by striking out the words "in the East Boston district court."

Section 13. Section 68 of said chapter 218 is hereby amended by striking out the words "East Boston district court" and inserting in place thereof the following:-

district court of Chelsea.

Section 14. Class I of paragraph (1) of section 79 of said chapter 79 of said chapter 218 is hereby amended by striking out the words "municipal court of the East Boston district."

Section 15. All cases and proceedings pending in the East Boston division of the district court department held at East Boston, shall be transferred to and pending in the Chelsea division of the district court department. All writs, process, judgments and orders issued by or returnable to the East Boston division of the district court department, held at East Boston, shall continue with the same force and effect and be returnable to the Chelsea division of the district court department, and all rights and liabilities of the parties in any civil, criminal, juvenile or other proceeding previously commenced shall continue in full force and effect.

Section 16. Notwithstanding the provisions of any general or special law to the contrary, the position of first justice of the

district court of Chelsea shall be held by the justice holding the position of first justice of the district court of Chelsea on the effective date of this section or the justice holding the position of first justice of the East Boston district court on the effective date of this section, whoever is senior in service, and the position of associate justice of the district court of Chelsea shall be held by the justice holding the position of associate justice of the district court of Chelsea on the effective date of this section or the justice holding the position of associate justice of the East Boston district court on the effective date of this section, whoever is junior in service.

Section 17. Notwithstanding the provisions of any general or special law to the contrary, the clerk-magistrate who is senior in length of service between the clerk-magistrates of the Chelsea division of the district court department and the East Boston division of the district court department on the effective date of this section shall become and have the powers, duties and compensation of clerk-magistrate of the Chelsea division of the district court department. The clerk-magistrate who is junior in length of service between the clerk-magistrate of the Chelsea division of the district court department and the East Boston division of the district court department shall become and have the powers, duties and compensation of the first assistant clerk of the Chelsea division of the district court department; provided, however, that he shall suffer no loss in his rate of compensation as of the effective date of this section; and provided, further, that he shall thereafter continue to be eligible for cost of living

and step rate salary increases as if he were still clerk-magistrate of a division of the district court department after the effective date of this section.

Notwithstanding the provisions of any general or special law to the contrary, the chief probation officer who is senior in length of service between the chief probation officers of the Chelsea division of the district court department and the East Boston division of the of the district court department on the effective date of this section shall become and have the powers, duties and compensation of chief probation officer of the Chelsea division of the district court department. The chief probation officer who is junior in length of service between the chief probation officers of the Chelsea division of the district court department and the East Boston division of the district court department shall become and have the powers, duties and compensation of first assistant chief probation officer of the Chelsea division of the district court department; provided, however, that he shall suffer no loss in his rate of compensation as of the effective date of this section; and, provided further, that he shall thereafter continue to be eligible for cost of living and step rate salary increases as if he were still a chief probation officer of a division of the district court department after the effective date of this section.

Section 18. All clerical assistants, probation officers, court officers, and other personnel appointed to the East Boston division of the district court department shall be transferred to the Chelsea division of the district court department.



Chapter 276, Section 87A of the General Laws, as amended by Chapter 202, Section 27 of the Acts of 1988, is hereby amended by striking out the last paragraph and inserting in place thereof the following:

Said probation fees shall be collected by the several probation officers of the Trial Court and shall be transmitted monthly to the State Treasurer. Eighty percent of said fees shall be deposited in the General Fund. Twenty percent of said fees shall be deposited in a "Probation Fee Fund" which shall be established upon the books of the Commonwealth. Said Fund may also receive other monies from other sources pursuant to law. The State Treasurer shall receive, deposit and invest all monies transmitted to him for the "Probation Fee Fund" in such a manner that will insure the highest interest rate available consistent with the safety of the Fund. The proceeds of the Fund shall be made available to the Chief Administrative Justice for use in the operation and maintenance of alternative sentencing programs and alternative dispute resolution programs. The Chief Administrative Justice shall account for all monies received from said Fund and report on the expenditures of said monies annually to the House and Senate Committee on Ways and Means. The State Treasurer shall account for all fees received and report said fees annually, itemized by court division, to the House and Senate Committees on Ways and Means.

Section 19. Except as otherwise provided in this Act, all personnel affected by sections one to eighteen, inclusive, of this act shall continue to serve in the judicial system of the commonwealth without reduction in compensation and without loss of seniority, vacation, sickness or retirement rights. The provisions of this section shall not prevent any person from being removed for cause in any manner provided by law.

Section 20. The provisions of this act shall take effect on January first, nineteen hundred and ninety-four.

